

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

VANESSA OSBORNE,

Civil Action No.: 17-CV-02099-JNE-FLN

Plaintiff,

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, Vanessa Osborne, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1068], and by and through undersigned counsel submits this, her Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In June of 2015, Ms. Vanessa Osborne contacted undersigned counsel regarding an infection and subsequent treatment that she experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records suggested that a Bair Hugger device was used during the original surgery.
3. On June 18, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Efforts to have Ms. Osborne complete the Plaintiff Fact Sheet were complicated by her not answering phone calls, returning voice messages, or responding to contact letters or emails.
5. Phone calls by Kennedy Hodges staff went unanswered on the following dates: July 17, 2017, October 31, 2017, November 2, 2017, December 5, 2017, January 24, 2018, and February 1, 2018.
6. Additionally, written correspondence consisting of letters or emails requesting that Ms. Osborne contact Kennedy Hodges was sent on the following dates: June 16, 2017, September 13, 2017, October 12, 2017, October 31, 2017, and February 1, 2018.
7. While counsel has diligently continued their attempts to contact Ms. Osborne for several months, those efforts have not been successful to date.
8. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Ms. Osborne be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: February 8, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on February 8, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges
David W. Hodges